
A BILL FOR AN ACT

To further amend title 54 of the Code of the Federated States of Micronesia, as amended, by adding a new chapter 3 to establish an income tax for corporations, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1 Section 1. Title 54 of the Code of the Federated States of
2 Micronesia, as amended, is hereby further amended by adding a new
3 chapter 3 entitled "Income Tax Regime for FSM Corporations".

4 Section 2. Title 54 of the Code of the Federated States of
5 Micronesia, as amended, is hereby further amended by adding a new
6 section 311 of chapter 3 to read as follows:

7 "Section 311. Short title. This chapter may be cited
8 as the 'Corporate Income Tax Act of 2004'.

9 Section 3. Title 54 of the Code of the Federated States of
10 Micronesia, as amended, is hereby further amended by adding a new
11 section 312 of chapter 3 to read as follows:

12 "Section 312. Definitions.

13 (1) A 'control group' for purposes of this chapter
14 shall mean the corporation and its 80% or greater owned
15 subsidiaries, its parent companies that own directly or
16 indirectly 80% or more of the corporation, and the 80%
17 or greater owned subsidiaries of such parent companies.

18 (2) 'Secretary' means the Secretary of the Department
19 of Finance and Administration."

1 Section 4. Title 54 of the Code of the Federated States of
2 Micronesia, as amended, is hereby further amended by adding a new
3 section 313 of chapter 3 to read as follows:

4 "Section 313. Applicability of this chapter. Taxes
5 imposed under this chapter shall apply to all
6 corporations unless:

7 (1) the corporation's shareholder equity or paid-in
8 capital as of the beginning of its taxable year is less
9 than \$1,000,000; or

10 (2) the shareholder equity or paid-in capital of the
11 corporation's control group is less than \$10,000,000; or

12 (3) the corporation is principally engaged in business
13 in the Federated States of Micronesia as a bank as such
14 term is defined in 29 F.S.M.C. §102(1); or

15 (4) the corporation was formed under the laws of the
16 Federated States of Micronesia prior to January 1,
17 2005."

18 Section 5. Title 54 of the Code of the Federated States of
19 Micronesia, as amended, is hereby further amended by adding a new
20 section 314 of chapter 3 to read as follows:

21 "Section 314. Filing of report. A corporation that is
22 subject to taxation under this chapter shall file an
23 initial written report with the Secretary. The written
24 report shall be signed by the authorized representative
25 of the corporation and shall state:

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- 1 (1) the true and correct name of the corporation;
 - 2 (2) the taxpayer identification number or other
 - 3 identifying number, if any, of the corporation;
 - 4 (3) the mailing and office address of the corporation;
 - 5 (4) the name, address, telephone, and fax numbers of
 - 6 the designated agent for the corporation;
 - 7 (5) the nature of the corporation's principal
 - 8 business; and
 - 9 (6) the last day of the corporation's taxable year for
 - 10 which the report is being filed.
 - 11 (7) The report shall be filed by the corporation
 - 12 within sixty (60) days after the corporation becomes
 - 13 subject to this chapter."

14 Section 6. Title 54 of the Code of the Federated States of
15 Micronesia, as amended, is hereby further amended by adding a new
16 section 315 of chapter 3 to read as follows:

17 "Section 315. Continued applicability of this chapter.
18 A corporation subject to taxation under this chapter
19 shall continue to be subject to taxation under this
20 chapter through the last day of the taxable year in
21 which it meets the criteria set forth in section 311 on
22 any day of such taxable year."

23 Section 7. Title 54 of the Code of the Federated States of
24 Micronesia, as amended, is hereby further amended by adding a new
25 section 321 of chapter 3 to read as follows:

1 "Section 321. Tax imposed. A tax at the rate of
2 twenty-five and a half percent (25.5%) is hereby imposed
3 for each taxable year on the taxable income of every
4 corporation subject to taxation under this chapter."

5 Section 8. Title 54 of the Code of the Federated States of
6 Micronesia, as amended, is hereby further amended by adding a new
7 section 322 of chapter 3 to read as follows:

8 "Section 322. Taxable income defined. The taxable
9 income of a corporation subject to taxation under this
10 chapter equals its income before income taxes for the
11 taxable year, as determined under Generally Accepted
12 Accounting Principals, consistently applied ("GAAP"), as
13 GAAP is regularly utilized in the country of
14 incorporation or country of citizenship of the
15 corporation's principal shareholder."

16 Section 9. Title 54 of the Code of the Federated States of
17 Micronesia, as amended, is hereby further amended by adding a new
18 section 331 of chapter 3 to read as follows:

19 "Section 331. Non-refundable credit for payment of
20 foreign taxes. In the case of a corporation subject to
21 taxation under this chapter, any income taxes paid or
22 accrued on the taxable income during the taxable year to
23 a foreign country shall be allowed as a credit against
24 the amount of tax imposed by section 321. In the case
25 of a dividend received by a corporation, a credit shall

1 also be allowed against the amount of tax imposed by
2 section 321 in an appropriate amount to reflect any
3 income taxes the corporation can demonstrate have been
4 paid with respect to such dividend to any foreign
5 country or countries. In no case shall a corporation,
6 in any taxable year, be entitled to credits which, in
7 the aggregate, exceed the amount of the tax imposed, for
8 that taxable year, under the provisions of section 321
9 of this chapter. No foreign tax credit shall be
10 permitted to create a refund or credit for overpayment
11 of tax; but any amount of foreign tax not creditable by
12 reason of this provision may be carried forward as a
13 creditable foreign tax to each succeeding year until
14 fully utilized subject to the same restrictions in the
15 succeeding years."

16 Section 10. Title 54 of the Code of the Federated States of
17 Micronesia, as amended, is hereby further amended by adding a new
18 section 332 of chapter 3 to read as follows:

19 "Section 332. Refundable Credit for overpayment of tax.
20 In the case of any overpayment by a corporation of tax
21 imposed by section 321, the amount of such overpayment
22 shall be refunded to the corporation or shall be applied
23 to any tax liability owed by the corporation to the
24 Federated States of Micronesia."

1 Section 11. Title 54 of the Code of the Federated States of
2 Micronesia, as amended, is hereby further amended by adding a new
3 section 341 of chapter 3 to read as follows:

4 "Section 341. Accounting period; taxable year defined.
5 Taxable income shall be computed on the basis of the
6 corporation's annual accounting period as utilized for
7 financial accounting purposes, which may be the calendar
8 year or a fiscal year. This period shall serve as the
9 corporation's taxable year for purposes of this chapter.
10 The term 'calendar year' means a period of 12 months
11 ending on December 31. The term 'fiscal year' means a
12 period of 12 months ending on the last day of any month
13 other than December. A corporation using a calendar
14 year or a fiscal year may, at its option, convert from a
15 calendar year to a fiscal year or from a fiscal year to
16 a calendar year, provided, however, that such a
17 conversion may not be done more than once during any
18 sixty (60) month period without the advance written
19 consent of the Secretary."

20 Section 12. Title 54 of the Code of the Federated States of
21 Micronesia, as amended, is hereby further amended by adding a new
22 section 342 of chapter 3 to read as follows:

23 "Section 342. Method of accounting. The taxable income
24 of a corporation shall be computed under the methods of
25 accounting on the basis of which the corporation

1 regularly computes its income in keeping its books under
2 GAAP. To the extent permitted by GAAP, a corporation
3 may compute its taxable income under any of the
4 following methods of accounting:"

5 (1) the cash receipts and disbursements method;

6 (2) an accrual method;

7 (3) any combination of the foregoing methods or any
8 other method selected by the corporation.

9 To the extent permitted by GAAP, a corporation using any
10 one of the above methods may, at its option, convert to
11 another one of the above methods, provided, however,
12 that such a conversion may not be done more than once
13 during any sixty (60) month period without the advance
14 written consent of the Secretary."

15 Section 13. Title 54 of the Code of the Federated States of
16 Micronesia, as amended, is hereby further amended by adding a new
17 section 351 of chapter 3 to read as follows:

18 "Section 351. Filing of annual returns. Every
19 corporation subject to taxation under this chapter shall
20 prepare and file with the Secretary an annual income tax
21 return on a form approved by the Secretary, which return
22 shall be signed by the corporation's authorized
23 representative. This form shall be filed with the
24 Secretary, together with a copy of the corporation's
25 financial statements acceptable to the Secretary, by the

1 last day of the sixth month following the close of the
2 corporation's taxable year."

3 Section 14. Title 54 of the Code of the Federated States of
4 Micronesia, as amended, is hereby further amended by adding a new
5 section 352 of chapter 3 to read as follows:

6 "Section 352. Payment of tax due. Within 30 days of
7 the close of the corporation's taxable year, the
8 corporation shall pay its estimated amount of the tax
9 due for that year (the 'estimated amount'). Any
10 additional tax due as shown on the annual income tax
11 return of the corporation shall be paid by the last
12 business day of the sixth month following the close of
13 the corporation's taxable year. If the additional tax
14 due as indicated on the annual income tax return is more
15 than 10% of the estimated tax amount paid, the
16 corporation shall also pay interest on the additional
17 tax due at the rate of two-thirds of one percent per
18 month, or fraction of a month, from the due date of the
19 estimated tax amount to the date the additional tax due
20 is paid."

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23 Section 15. This act shall become law upon approval by the
24 President of the Federated States of Micronesia or upon its
25 becoming law without such approval.

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3 Date: 9/2/04

Introduced by: /s/ Sabino S. Asor
Sabino S. Asor

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/s/ Alik L. Alik
Alik L. Alik

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